

Remarks

This application has been carefully reviewed in light of the Office Action dated November 16, 2007. Claims 1 to 9, 11, 12, 14, 15 and 22 to 29 remain in the application, with Claims 10, 13 and 16 to 20 having previously been cancelled, with Claim 21 having been cancelled herein, and with new Claims 28 and 29 having been added herein. Claims 1 and 22 have been amended herein. Claims 1, 22 and 26 are the independent claims currently under consideration. Reconsideration and further examination are respectfully requested.

Claims 1 to 9, 11, 12, 14, 15 and 21 to 25 were rejected under 35 U.S.C. § 112, second paragraph, for allegedly being indefinite. Specifically, the use of the term “tending to” in the Claims was objected to for allegedly being vague and indefinite. Without conceding the correctness of this rejection, and to expedite the allowance of this application, Applicants have amended Claims 1 and 22 as set forth above to remove all instances of the term “tending to.” New Claims 28 and 29 have been added, indicating that the at least one instrument and the at least one active cooler are “heat-generating” and “vibrating,” respectively. Reconsideration and withdrawal of these rejections are respectfully requested.

Claims 1, 12 and 22 were rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 3,489,203 (“Fischell”) in view of either U.S. Patent No. 6,017,013 (“Simonian”) or U.S. Patent No. 3,540,688 (“Schulte”); Claims 2, 3 and 9 were rejected under 35 U.S.C. § 103(a) over Fischell in view of either Simonian or Schulte and further in view of allegedly admitted prior art (“AAPA”) in paragraph 26 of the specification; Claims 4 to 8, 14, 23 and 24 were rejected under 35 U.S.C. § 103(a) over Fischell in view of either Simonian or Schulte and AAPA and further in view of U.S. Patent No. 6,164,077 (“Feger”); Claim 11 was rejected under 35 U.S.C. § 103(a) over Fischell in view of either Simonian or Schulte and further in view of U.S. Patent No. 6,073,888 (“Gelon”); and Claims 15 and 25 were rejected under 35 U.S.C. § 103(a) over Fischell in view of either Simonian or Schulte and further in view of U.S. Patent No. 5,823,476 (“Caplin”). Reconsideration and withdrawal of these rejections are respectfully requested.

Applicants thank the Examiner for the indication that Claims 26 and 27 are allowed, and that Claim 21 contains allowable subject matter. Allowable Claim 21 has been cancelled without prejudice or disclaimer of the subject matter therein, and independent Claims 1 and 22 have been amended as set forth above to incorporate the allowable subject matter thereof. Accordingly, independent Claims 1 and 22 are believed to be in a condition for allowance.

The other claims currently under consideration in the application are dependent from the independent claims discussed above and therefore are believed to be allowable for at least the same reasons. Because each dependent claim is deemed to define an additional aspect of the invention, however, the individual consideration of each on its own merits is respectfully requested.

In view of the foregoing amendment and remarks, all of the claims under consideration are believed to be in condition for allowance and such action is respectfully requested at the Examiner's earliest convenience.

Applicant's undersigned attorney may be reached in our Orange County office by telephone at (949) 851-0633. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Joshua M. Nelson
Registration No. 55,487

18191 Von Karman Ave., Suite 400
Irvine, CA 92612-7108
Phone: 949.851.0633 JMN:bdh
Facsimile: 949.851.9348
Date: March 9, 2007
ORC 408630-1.070602.0021

**Please recognize our Customer No. 31824
as our correspondence address.**